

1 S.22

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Crimes; possession of fentanyl

6 Statement of purpose of bill as introduced: This bill proposes to increase the
7 penalties for possessing, selling, dispensing, or trafficking fentanyl.

8 An act relating to increased penalties for possession, sale, and dispensation
9 of fentanyl

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 18 V.S.A. § 4233a is added to read:

12 § 4233a. FENTANYL

13 (a) Possession.

14 (1) A person knowingly and unlawfully possessing fentanyl shall be
15 imprisoned not more than one year or fined not more than \$2,000.00, or both.

16 (2) A person knowingly and unlawfully possessing fentanyl in an
17 amount consisting of 20 milligrams or more of one or more preparations,
18 compounds, mixtures, or substances containing fentanyl shall be imprisoned
19 not more than five years or fined not more than \$100,000.00, or both.

1 (3) A person knowingly and unlawfully possessing fentanyl in an
2 amount consisting of 40 milligrams gram or more of one or more preparations,
3 compounds, mixtures or substances containing fentanyl shall be imprisoned
4 not more than 10 years or fined not more than \$250,000.00, or both.

5 (4) A person knowingly and unlawfully possessing fentanyl in an
6 amount consisting of 70 milligrams or more of one or more preparations,
7 compounds, mixtures, or substances containing fentanyl shall be imprisoned
8 not more than 20 years or fined not more than \$1,000,000.00, or both.

9 (b) Selling or dispensing.

10 (1) A person knowingly and unlawfully dispensing fentanyl shall be
11 imprisoned not more than three years or fined not more than \$75,000.00, or
12 both. A person knowingly and unlawfully selling fentanyl shall be imprisoned
13 not more than five years or fined not more than \$100,000.00, or both.

14 (2) A person knowingly and unlawfully selling or dispensing fentanyl in
15 an amount consisting of 20 milligrams or more of one or more preparations,
16 compounds, mixtures, or substances containing fentanyl shall be imprisoned
17 not more than 10 years or fined not more than \$250,000.00, or both.

18 (3) A person knowingly and unlawfully selling or dispensing fentanyl in
19 an amount consisting of 40 milligrams or more of one or more preparations,
20 compounds, mixtures, or substances containing fentanyl shall be imprisoned
21 not more than 20 years or fined not more than \$1,000,000.00, or both.

1 (c) Trafficking. A person knowingly and unlawfully possessing fentanyl in
2 an amount consisting of 40 milligrams or more of one or more preparations,
3 compounds, mixtures, or substances containing fentanyl with the intent to sell
4 or dispense the fentanyl shall be imprisoned not more than 30 years or fined
5 not more than \$1,000,000.00, or both. There shall be a permissive inference
6 that a person who possesses fentanyl in an amount of 40 milligrams or more of
7 one or more preparations, compounds, mixtures, or substances containing
8 fentanyl intends to sell or dispense the fentanyl. The amount of possessed
9 fentanyl under this subsection to sustain a charge of conspiracy under
10 13 V.S.A. § 1404 shall be no less than 70 milligrams in the aggregate.

11 (d) Transportation into the State. In addition to any other penalties
12 provided by law, a person knowingly and unlawfully transporting more than
13 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the
14 fentanyl shall be imprisoned not more than 10 years or fined not more than
15 \$100,000.00, or both.

16 Sec. 2. 18 V.S.A. § 4234 is amended to read:

17 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

18 (a) Possession.

19 (1) A person knowingly and unlawfully possessing a depressant,
20 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
21 imprisoned not more than one year or fined not more than \$2,000.00, or both.

1 (2) A person knowingly and unlawfully possessing a depressant,
2 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting
3 of 100 times a benchmark unlawful dosage or its equivalent as determined by
4 the ~~board of health~~ Board of Health by rule shall be imprisoned not more than
5 five years or fined not more than \$25,000.00, or both.

6 (3) A person knowingly and unlawfully possessing a depressant,
7 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting
8 of 1,000 times a benchmark unlawful dosage or its equivalent as determined by
9 the ~~board of health~~ Board of Health by rule shall be imprisoned not more than
10 10 years or fined not more than \$100,000.00, or both.

11 (4) A person knowingly and unlawfully possessing a depressant,
12 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting
13 of 10,000 times a benchmark unlawful dosage or its equivalent as determined
14 by the ~~board of health~~ Board of Health by rule shall be imprisoned not more
15 than 20 years or fined not more than \$500,000.00, or both.

16 (b) Selling or dispensing.

17 (1) A person knowingly and unlawfully dispensing a depressant,
18 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
19 imprisoned not more than three years or fined not more than \$75,000.00, or
20 both. A person knowingly and unlawfully selling a depressant, stimulant, or

1 narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not
2 more than five years or fined not more than \$25,000.00, or both.

3 (2) A person knowingly and unlawfully selling or dispensing a
4 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
5 consisting of 100 times a benchmark unlawful dosage or its equivalent as
6 determined by the ~~board of health~~ Board of Health by rule shall be imprisoned
7 not more than 10 years or fined not more than \$100,000.00, or both.

8 (3) A person knowingly and unlawfully selling or dispensing a
9 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
10 consisting of 1,000 times a benchmark unlawful dosage or its equivalent as
11 determined by the ~~board of health~~ Board of Health by rule shall be imprisoned
12 not more than 20 years or fined not more than \$500,000.00, or both.

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on July 1, 2017.